

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

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Elijah James Gaddy, #17859-058,

Petitioner,

v.

John J. LaManna, Warden,

Respondent.

Civil Action No. 3:08-1569-SB-JRM

ORDER

This matter is before the Court on the pro se Petitioner's request for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. Pursuant to Local Rule 73.02(B)(2)(a), this matter was referred to a United States Magistrate Judge for preliminary review.

On June 12, 2008, the Respondent filed a motion for summary judgment, and on June 20, 2008, the Magistrate Judge issued an Order pursuant to Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), advising the Petitioner of his obligation to respond to the motion for summary judgment. Because the Petitioner failed to respond, the Magistrate Judge issued an order on August 12, 2008, advising the Petitioner that if he failed to notify the court in fifteen days that he wished to continue the action, then the matter would be recommended for dismissal with prejudice. Following this order, the Court received a motion from the Petitioner on August 26, 2008, seeking an extension of time in which to respond to the motion for summary judgment. The Magistrate Judge granted the Petitioner's motion and ordered him to respond on or before October 3, 2008. The Petitioner never filed a response.

Due to the Petitioner's failure to respond, the Magistrate Judge issued a report and recommendation ("R&R") on December 15, 2008, recommending that this action be


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dismissed with prejudice pursuant to Federal Rule of Civil Procedure 41(b) for failure to prosecute. Attached to the R&R was a notice advising the Petitioner of his right to file specific, written objections to the R&R within ten days of the date of service. To date, no objections have been filed.

Absent timely objection from a dissatisfied party, a district court is not required to review, under a de novo or any other standard, a Magistrate Judge's factual or legal conclusions. Thomas v. Arn, 474 U.S. 140, 150 (1985); Wells v. Shriners's Hosp., 109 F.3d 198, 201 (4th Cir. 1997). Here, because the parties filed no objections to the R&R, there are no portions of the R&R to which the Court must conduct a de novo review. Accordingly, the Court hereby adopts the Magistrate Judge's R&R as the Order of this Court, and it is

ORDERED that the Petitioner's § 2241 petition is dismissed with prejudice pursuant to Rule 41(b) of the Federal Rules of Procedure for failure to prosecute.

IT IS SO ORDERED.


Sol Blatt, Jr.
Senior United States District Judge

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January 15, 2009
Charleston, South Carolina